

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNITED STATES OF AMERICA,</b>	)	<b>CASE NO. 8:04CR199</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>ORDER</b>
	)	
<b>BILLY D. DAVIS,</b>	)	
	)	
<b>Defendant.</b>	)	

This matter is before the Court on the Defendant's motion to dismiss (Filing No. 163).

On December 2, 2005, Judgment was entered and the Defendant was sentenced to 360 months imprisonment. His conviction and sentence were affirmed on direct appeal. Davis's motion filed under 28 U.S.C. § 2255 was summarily denied, and his request for a certificate of appealability was denied in this Court and by the Eighth Circuit Court of Appeals. Also denied were Davis's petition for a rehearing and rehearing en banc and his petition for a writ of certiorari filed with respect to his § 2255 motion. In light of the amendments to the crack cocaine sentencing guidelines, Davis's sentence was reduced to 324 months imprisonment. Davis appealed from that order, and his case is pending before the Eighth Circuit.

Because Davis's case is pending before the Eighth Circuit, this Court has no jurisdiction to rule on his motion. The Court notes that the motion addresses matters such as jurisdiction over Davis's underlying case, which has concluded.

**IT IS ORDERED:**

1. The Defendant's motion to dismiss (Filing No. 163) is denied for lack of jurisdiction; and

2. The Clerk is directed to mail a copy of this order to the Defendant at his last known address.

DATED this 3<sup>rd</sup> day of December, 2009.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge